

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION**

**ROBERT F. KENNEDY, JR. ET
AL.,**

Plaintiffs,

v.

**CASE NO. 23-cv-0381
(CONSOLIDATED WITH CIVIL
ACTION NO. 22-cv-01213 (LEAD))**

JOSEPH R. BIDEN ET AL.,

Defendants.

DECLARATION OF MARY S. HOLLAND

1. I am the Chief Executive Officer and a board member of Children’s Health Defense (“CHD”), which is the plaintiff organization in this action, *Kennedy v. Biden*, No. 3:23-cv-0381 (W.D. La.). I am an attorney in good standing with the Bar of New York State (No. 2355618), and admitted to practice before the U.S. District Court for the Southern District of New York, the D.C. Circuit Court of Appeals, and the U.S. Supreme Court. This declaration is made in support of the *Kennedy* Plaintiffs’ supplemental brief showing Plaintiffs’ standing. If called as a witness, I could and would testify competently to the facts herein.
2. CHD, like the other *Kennedy* Plaintiffs, brought this action as a companion case to *Missouri v. Biden* primarily to protect and vindicate our First Amendment

rights in the event that the *Missouri* plaintiffs were found to lack standing.

3. CHD has for years been subject to intense censorship on major social-media platforms.

4. This is not merely *past* injury, but rather present, ongoing injury. CHD is today de-platformed from YouTube, Facebook, and Instagram.

5. On August 17, 2021, Meta Platforms, Inc. permanently terminated CHD's Facebook account and removed its Facebook page from being searchable or accessible online. CHD was later deplatformed from Meta's Instagram platform as well. There has been no change of status since then. CHD continues to be deplatformed from both Facebook and Instagram through the present day.

6. In September, 2021, YouTube blocked CHD's account (which had 47,000 followers at that time) and removed CHD's archived videos. Those archived videos have never been restored or returned; they are lost to CHD. On October 8, 2021, CHD received a message from YouTube stating that CHD's channel had been "removed" and that its YouTube account had been "terminated." There has been no change since. CHD continues to be deplatformed from YouTube through the present day, and CHD continues to be artificially "demoted" or "de-boosted" in Google search results.

7. The continuing exclusion of CHD from these major social-media platforms is enormously damaging to CHD, to CHD's members and followers, and to all that

CHD seeks to accomplish. As a direct result of being de-platformed from Facebook and Instagram, the number of individuals viewing CHD's speech has been drastically reduced.

8. CHD's exclusion from these major social-media platforms followed a years-long, highly successful campaign by the federal government to induce the platforms not only to censor health-related and COVID-related content the government disfavors, but specifically to censor CHD. Having struggled at the helm of CHD with and against this governmental censorship campaign for years, and having fought for years on the front lines of the battle to get CHD's content published online, I can say with an extremely high degree of confidence that the censorship and ultimate de-platforming inflicted on CHD is the result of—i.e., has been caused by—government pressure and collusion specifically directed at CHD.

9. Here are a few of the many facts that support that conclusion. Wherever possible, I have provided citation to documentary sources for these facts from the *Missouri v. Biden* record.

10. On March 24, 2021, a U.K.-based organization calling itself the “Center for Countering Digital Hate” (hereafter “Digital Hate”) issued a report entitled *The Disinformation Dozen: Why Platforms Must Act on Twelve Leading Online Anti-Vaxxers*, <https://counterhate.com/research/the-disinformation-dozen>. This report coined the phrase “Disinformation Dozen” to describe 12 individuals and

organizations who supposedly were “responsible for up to 65% of anti-vaccine content” on social media, including “up to 73% of Facebook’s anti-vaxx content.” *Id.* at 6, 7. Both Robert F. Kennedy, Jr., and Children’s Health Defense were listed among of the “Disinformation Dozen.” *Id.* at 14-15. The report demanded that social media companies “[d]eplatform the Disinformation Dozen” and “key anti-vaxxer organizations,” including Kennedy and Children’s Health Defense. *Id.* at 10.

11. Although not relevant to CHD’s standing, I wish to emphasize that the now-infamous Digital Hate “Disinformation Dozen” report never had any factual basis (Facebook itself would later state that “[t]here isn’t any evidence” supporting the report’s claims, *see* Meta, “How We’re Taking Action Against Vaccine Misinformation Superspreaders,” Aug. 18, 2021, <https://about.fb.com/news/2021/08/taking-action-against-vaccine-misinformation-superspreaders/>), and is utterly false and defamatory in what it says and implies about CHD.

12. CHD does not publish any disinformation. CHD has internal fact-checkers and a board of highly respected, prestigious scientific advisors who ensure that CHD’s content is accurate and backed up by scientific data. CHD also publishes (clearly so-labeled) opinion pieces. In both its empirical and opinion content, CHD most certainly has been critical of, and skeptical about, the safety and efficacy of the COVID vaccines, and deeply critical of U.S. COVID policy, especially U.S. COVID policies relating to children (policies now widely admitted to have been unjustified

and severely harmful to children), and relating to the vaccine mandates (which have now, in many cases, been found to have been unlawful), but it outrageous and un-American to label such skepticism and criticism “disinformation” and to try to suppress it.

13. In any event, internal government and platform documents later made public—including emails and other communications from both government and social-media sources—show that soon after publication of this report, deplatforming the so-called “Disinformation Dozen” became a key demand in the White House’s secret pressure campaign on Facebook and other platforms to censor disfavored viewpoints.

14. A senior Facebook executive’s May 1, 2021, email to the White House indicates that the White House had been demanding action against the “Disinformation Dozen” in oral meetings with Facebook. See Email Conversation between Rob Flaherty and Redacted Facebook Employee dated May 1 to 6, 2021, No. 3:22-cv-01213, Doc. 174-1 at 41-42. In those private meetings, Facebook noted, the White House had insisted that **“12 accounts are responsible for 73% of vaccine misinformation,”** and had demanded that Facebook censor them. *Id.* (bold in original). The May 1 email stated that Facebook was scrutinizing those speakers, but that much of their content did not violate Facebook’s policies: “[W]e continue to review accounts associated with the 12 individuals identified in the [Digital Hate]

‘Disinformation Dozen’ report, but many of those either do not violate our policies or have ceased posting violating content.” *Id.* The email continued: “I realise that our position on this continues to be a particular concern for you.” *Id.* But at this time Facebook was still trying to resist the White House’s call to censor the Disinformation Dozen, which, Facebook said, could be viewed as a “cover-up”: “Among experts we have consulted, there is a general sense that deleting more expressions of vaccine hesitancy might be more counterproductive to the goal of vaccine uptake because it could prevent hesitant people from talking through their concerns and potentially reinforce the notion that there’s a cover-up.” *Id.*

15. Just a few days later, at a White House press conference, the White House Press Secretary told media that President Biden favors “a robust anti-trust program” for “the major platforms,” and linked that threat with the White House’s demand for greater censorship by the platforms, stating that the President “supports ... a robust anti-trust program. So his view is that there’s more that needs to be done to ensure that this type of misinformation; disinformation; sometimes life-threatening information is not going out to the American public.” Glenn Decl. Ex. 29 at 15, *Missouri v. Biden*, No. 3:22-cv-1213, Doc. 10-1 at 353.

16. There are few things the federal government could do or threaten to do against Meta more devastating than an antitrust enforcement action potentially breaking up the company. Mark Zuckerberg, Meta’s founder and CEO, has referred

to a federal antitrust action against Meta as “an existential threat” to his company.

Glenn Decl. Ex. 12 at 2, Missouri v. Biden, No. 3:22-cv-1213, Doc. 10-1 at 202.

17. The day after this threat, May 6, 2021, the White House privately emailed Facebook a series of additional demands for censorship, which included attacking Facebook for not taking more aggressive action against the so-called Disinformation Dozen: “Seems like your ‘dedicated vaccine hesitancy’ policy isn’t stopping the disinfo dozen.” Email from Rob Flaherty to Redacted Facebook Employee dated May 6, 2021, Missouri v. Biden, No. 3:22-cv-1213, Doc. 174-1 at 41.

18. Facebook’s refusal to deplatform the Disinformation Dozen remained a sticking point for the White House and the Surgeon General’s Office. At a joint press conference with Surgeon General Murthy on July 15, 2021, the White House Press Secretary demanded that platforms adopt “a robust enforcement strategy” against disfavored viewpoints, again using the Disinformation Dozen as a specific demand: “[T]here’s about 12 people who are producing 65 percent of anti-vaccine misinformation on social media platforms. All of them remain active on Facebook, despite some even being banned on other platforms, including ... ones that Facebook owns.” Waldo Decl. Ex. 10 at 11, Missouri v. Biden, No. 3:22-cv-1213, Doc. 210-11 at 11.

19. This White House statement about “being banned on other platforms” was a specific reference to Mr. Kennedy, who at that time was deplatformed from

Instagram but not from Facebook.

20. Let me emphasize that at the time of these communications—July, 2021—Mr. Kennedy was CHD’s chair and chief spokesman. His factual and opinion pieces appeared frequently in CHD’s postings. In other words, to call for Mr. Kennedy to be deplatformed in mid-2021 was also to call for CHD to be censored.

21. The next day, July 16, 2021, the President stated that Facebook and other platforms were “killing people” by not censoring speech that expressed skepticism about, or reported facts challenging, the safety and efficacy of the COVID vaccines. Glenn Decl. Ex 33 at 1, Missouri v. Biden, No. 3:22-cv-1213, Doc. 10-1 at 436. That same day, the White House Press Secretary reinforced the White House’s demand that speakers like Kennedy and Children’s Health Defense be banned across all platforms: “You shouldn’t be banned from one platform and not others ... for providing misinformation out there.” Glenn Decl. Ex. 34 at 7, Missouri v. Biden, No. 3:22-cv-1213, Doc. 10-1 at 445.

22. A few days later, on July 20, 2021, the White House Communications Director linked President Biden’s comment on “killing people” to an explicit threat of adverse legislative action against the platforms. She “specified the White House is examining how misinformation fits into the liability protections granted by Section 230 of the Communications Decency Act, which shields online platforms from being responsible for what is posted by third parties on their sites.” Glenn Decl.

Ex. 35, Missouri v. Biden, No. 3:22-cv-1213, Doc. 10-1 at 474-75: USA TODAY, ‘They Should Be Held Accountable’: White House Reviews Platforms’ Misinformation Liability, July 20, 2021) at <https://www.usatoday.com/story/news/politics/2021/07/20/white-house-reviews-section-230-protections-covid-misinformation/8024210002>. The White House’s options “could include amending the Communications Decency Act, or Section 230 of the act. ‘We’re reviewing that and certainly they should be held accountable,’ [the Communications Director] said. ‘And I think you heard the president speak very aggressively about this.’” Glenn Decl. Ex. 36, Missouri v. Biden, No. 3:22-cv-1213, Doc. 10-1 at 477-81: CNBC, White House says social media networks should be held accountable for spreading misinformation, CNBC.COM (July 20, 2021), at <https://www.cnbc.com/2021/07/20/white-house-social-networks-should-be-held-accountable-for-spreading-misinfo.html>.

23. Immediately after this mid-July pressure campaign, Facebook—which had resisted White House pressure to deplatform the Disinformation Dozen for months—abruptly switched positions and took aggressive action against the “Disinformation Dozen,” deplatforming dozens of accounts associated with Kennedy, Children’s Health Defense, and the others.

24. On July 23, 2021—three days after the White House Communications Director’s public threat—Facebook emailed Surgeon General Murthy and stated, “I

wanted to make sure you saw the steps we took just this past week”—i.e., since President Biden’s “killing people” comment on July 16, 2021—“to further address the ‘disinfo dozen.’” Waldo Decl. Ex. 19 at 1, *Missouri v. Biden*, No. 3:22-cv-1213, Doc. 210-18 at 1. Facebook reported to the Surgeon General that it had censored every member of the Disinformation Dozen, including Kennedy and Children’s Health Defense, in compliance with the White House’s demands: “We removed 17 additional Pages, Groups, and Instagram accounts tied to the disinfo dozen (so a total of 39 Profiles, Pages, Groups, and IG accounts deleted thus far, resulting in every member of the disinfo dozen having had at least one such entity removed).” *Id.* And Facebook reported that it was secretly censoring other accounts associated with the Disinformation Dozen: “We are also continuing to make 4 other Pages and Profiles, which have not yet met their removal thresholds, more difficult to find on our platform.” *Id.*

25. I want to stress the words “which have not yet met their removal thresholds” in the last-quoted email. I am extremely familiar with Facebook’s terms of service and “content-moderation” policies and with the language Facebook uses to refer to those policies. The words “have not yet met their removal thresholds” mean that the content in question had *not* been found to be “misinformation” violating Facebook’s terms of service (which would have permitted the content to be “removed”). In other words, at the behest of the Federal Government, Facebook was censoring

speech (shadow-banning it, making it “more difficult to find”) associated with the so-called Disinformation Dozen *even though that speech was not and had not been deemed to be “misinformation” in violation of Facebook’s terms of service.*

26. On August 18, 2021, Facebook again reported to the Surgeon General on additional censorship actions it was taking against the Disinformation Dozen.

Waldo Decl. Ex. 24 at 1, Missouri v. Biden, No. 3:22-cv-1213, Doc. 210-21 at 1.

These actions included the complete deplatforming of CHD from Facebook, which, as stated above, took place on August 17.

27. The above facts demonstrate to an extremely high degree of probability that Facebook’s deplatforming of CHD was no coincidence; rather, it was a direct result of federal governmental pressure, Facebook’s close working partnership with federal actors, or both.

28. Google’s deplatforming of CHD was similarly the result of governmental pressure and joint action. As this Court has stated: “In an April 22, 2021, email [to Google], Flaherty . . . stated his concern that misinformation on YouTube was ‘shared at the highest (and I mean the highest) levels of the White House.’ Flaherty indicated that the White House remains concerned that YouTube is ‘funneling people into hesitancy and intensifying people’s vaccine hesitancy.’ Flaherty further shared that ‘we’ want to make sure YouTube has a handle on vaccine hesitancy and is working toward making the problem better. Flaherty again noted vaccine hesitancy

was a concern that is shared by the highest (‘and I mean the highest’) levels of the White House.” *Missouri v. Biden*, 680 F. Supp. 3d 630, 655-56 (W.D. La. 2023) (citations omitted).

29. Throughout May 2021, regular meetings were held between Google (owner of YouTube) and the CDC in which CDC officials sought suppress dissemination of what the agency described as COVID “misinformation.” *See id.* at 666-67. *Id.*

30. Most fundamentally, Google was just as much a target as was Meta of the White House’s July 2021 coercive threats to pursue a “robust anti-trust program” against Big Tech companies that did not censor the supposed COVID “misinformation” coming from the “Disinformation Dozen” that was supposedly “killing people.” Google was just as much a target as Meta when the White House repeatedly demanded that members of the Disinformation Dozen who had been shut out of one social media platform (which was, as stated above, a specific reference to Mr. Kennedy and CHD) be taken off all platforms.

31. Thus it is extremely likely that YouTube’s deplatforming of CHD in September 2021 was also the result of governmental pressure on Google, YouTube’s collusion with federal actors (including prominently the CDC) to censor disfavored COVID-related speech, or both.

32. I have read the Supreme Court’s *Murthy* opinion. I’m aware of the Court’s statement that major platforms such as Facebook were already censoring COVID-

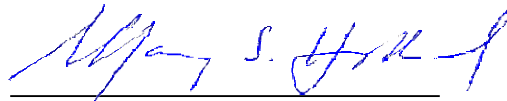
related content prior to the coercive 2021 White House communications described above, and I’m aware that the Court therefore viewed this 2020 censorship as “independent” of government coercion. However, I can state from CHD’s first-hand experience as a victim of this 2020 censorship that it was not “independent” of government involvement. Rather, this censorship was the result of the platforms’ working closely together with and partnering with federal actors, especially the CDC. In fact, both the CDC and Facebook publicly admitted their censorship partnership.

33. In late 2019 and throughout 2020, the CDC was openly admitting that it had “engaged” private “partners” to “contain the spread of misinformation” and “stop myths,” and that it was “work[ing] with social media companies” to achieve this goal. CDC, *Vaccinate with Confidence*, <https://www.cdc.gov/vaccines/partners/vaccinate-with-confidence.html>. In December 2019, a CDC officer testified before Congress that the CDC “will work with local partners, using trusted messengers, to establish new partnerships and contain the spread of misinformation. To advance this, we’ve recently *collaborated with social media companies like Pinterest and Facebook.*” MD testimony before the House Energy and Commerce Subcommittee on Oversight and Investigations, Dec. 4, 2019, <https://www.cdc.gov/washington/testimony/2019/t20191204.htm> (testimony of CDC official Nancy Messonnier) (emphasis added).

34. Meanwhile, Mark Zuckerberg publicly admitted that Facebook “work[s] with the CDC” to remove COVID “misinformation.” *See* AXIOS on HBO: Mark Zuckerberg on Misinformation, <https://www.youtube.com/watch?v=E5yyInwI7tw>.

35. In other words, by their own admission, Facebook was not exercising “independent judgment” about what constituted COVID “misinformation” in 2020 and independently censoring such content. On the contrary, the CDC was telling Facebook what constituted “misinformation” and was “partnering” and “working with” Facebook to censor such content.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and that this declaration was executed in Spring Valley, New York on July 31, 2024.



Mary S. Holland